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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Information presented by the Commissioner for Human Rights (Ombudsman) of Azerbaijan*

Note by the Secretariat

The Secretariat of the Human Rights Council hereby transmits the communication submitted by the Commissioner for Human Rights of Azerbaijan,** reproduced below in accordance with rule 7(b) of the rules of procedures described in the annex to Council resolution 5/1, according to which participation of national human rights institutions is to be based on arrangements and practices agreed upon by the Commission on Human Rights, including resolution 2005/74 of 20 April 2005.

* National human rights institution with "A"-status accreditation from the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.

** Reproduced in the annex as received, in the language of submission only.

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Annex

[English only]

Information sent by the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan

The role of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan in protection and promotion of children's rights

On 25 January 2001 Azerbaijan became a member of Council of Europe and 25 December 2001 joined to European Convention on Protection of Human Rights and Freedoms. According to the obligations undertaken by the state, on 28 December, 2001 Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was adopted. On 2 July 2002 the Commissioner was elected at the Parliament and in October started the activity.

According to the Constitutional Law (Article 1), the Commissioner shall be set up to restore the human rights and freedoms enshrined in the Constitution of the Republic of Azerbaijan and in the interna¬tional treaties to which the Republic of Azerbaijan is a party, violated by governmental and municipal bodies and officials of the Republic of Azerbaijan.

One of the main directions of activities of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan is to explore the situation on provision of children's rights, protect those rights, and restore violated rights. Since the very beginning of its activity, the Ombudsman has appointed an advisor in order to provide protection and advocacy of children's rights and coordinate the work on elimination of problems encountered by children. Apart from that, Commissioner has 4 regional centres (Ganja, Jalilabad, Shaki, Guba) and chiefs of those centres were appointed as Coordinators on Children's Rights.

Ombudsman has been paying strong attention to the problems of children, the protection of their rights and legal interests, and educational works on children's rights since the first day of establishment of this institution.

Generally, with a view to reliable protection of children's rights, the Commissioner's activities are carried out in the following directions:

- Investigation of complaints submitted to the Commissioner
- Monitoring of the status of children;
- Preparation of proposals on improvement of national legislation on children's rights;
- Conduction of investigation and research in order to learn the situation of children in state-sun institutions (child homes, boarding institutions, police stations, institutions for children in conflict with the law)
- Cooperation with relevant state bodies, non-governmental organisations, and international institutions;
- Conduction of educational and lobbying activities

- Ensuring participation of children, discover and develop their talent and organize efficient spending time for them through the child resource center of Ombudsman

Also the Ombudsman makes regular trips to several regions, especially on special occasions, and pays visit to vulnerable groups of population, including children deprived of parental care, minor offenders and takes an interest in their conditions and problems.

Since Azerbaijan ratified the Convention on the Rights of the Child, the State has provided periodic reports on the conducted work, gained achievements, and problems existing in this field to the UN Committee on the Rights of the Child. It should be noted that Committee on the Rights of the Child in its Concluding Observations regarding combined 3rd and 4th periodic report of the state (CRC/C/AZE/CO/3-4) notes the efforts undertaken by the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan to record and investigate complaints of children's rights violations. The Committee also welcomes the submission of the Ombudsman's first specialized report on children's rights to the State parliament. However, it reiterates its previous recommendation and urges the State to include within the Office of the Ombudsman an identifiable and specialized commissioner or deputy commissioner specifically responsible for children's rights.

As it is known the Committee in its Concluding Observations on the second periodic report of Azerbaijan (CRC/C/AZE/CO/2), recommended that the government, taking into account the Committee's general comment No. 2 on the role of independent national human rights institutions in the promotion and protection of the rights of the child (CRC/GC/2002/2), should include within the Office of the Ombudsman either an identifiable commissioner specifically responsible for children's rights, or a specific section or division responsible for children's rights. Furthermore, it should be provided with adequate human and financial resources, deal with complaints from children in a child-sensitive and expeditious manner and provide remedies for violations of their rights under the Convention.

The first specialized report on children's rights of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was prepared during 2009 "Child Year" in Azerbaijan and dedicated to the 50th Anniversary of the UN Declaration of the Rights of the Child and the 20th Anniversary of the UN Convention on the Rights of the Child. The report state policy on children's rights, international and national legislation in this field, proposals and recommendation aimed at better protection of children's rights are envisaged widely in the report. Proposals submitted to several concerned bodies were analyzed and relevant measures were taken on their implementation.

On the initiative of the Commissioner, the status and problems of children were discussed at the Parliament Plenary Session on child rights carried out on November 20, 2009, with the participation of children. Parliamentarians, representatives of state bodies, international organizations, NGOs participated at the session.

Each year from October 20 to November 20, Commissioner declares Child Rights Month Campaign and during the campaign the Commissioner and Regional Centres, concerned central and local executive power bodies, NGOs, child organizations carried out different events such as seminars, round-table discussions, art and essay competitions, and awareness-raising events on children's rights in secondary schools and child institutions.

Children's rights to education.

According to the Article 42 of the Constitution of the Republic of Azerbaijan:

- Every citizen has the right to education;
- The state guarantees free obligatory secondary education;
- The system of education is under the state control;

- The state guarantees continuation of education for most privileged persons irrespective of their financial position;
- The state establishes minimum educational standards.

At the same time, the issue of provision of children with the right to education and the objectives of education have been enshrined in the Convention on the Rights of the Child. Furthermore, the Law on the Rights of the Child stipulates the children's right to education and prohibition of evasion of children from obligatory general secondary education.

In all of its stages the education system should give correct direction to the formation of independent thinking and democratic view of life. The adoption of the "Law of the Republic of Azerbaijan on Education" in 2009 will contribute to ensuring children's right to high quality education, eradication of fundamental problems emerged in this field, and implementation of appropriate reforms.

In order to implement the Convention on the Rights of the Child and the Law of the Republic of Azerbaijan on the Rights of the Child and to enhance educational work on human rights, the Commissioner paid high attention to legal awareness activities as well as conducted numerous events on the protection of children's rights. Seminars, training courses and other events targeted at children, parents, and representatives of organisations dealing with children have been carried out for promotional purposes. The staff of Commissioner held a large number of training courses in various secondary schools, orphanages, and boarding schools of Baku city. Moreover, public awareness activities were carried out for refugees and internally displaced children residing in temporary camps and for minor offenders in the Correctional Institution of the Ministry of Justice.

Upon the initiative of the Ombudsman together with the Ministry of Education, Hierarchic Child Rights Education Plan was prepared, approved and is still being applied at secondary schools. Till now it was realized in 93 secondary schools of the country.

Children are given certificates for successfully completing the course. In order to ensure the sustainability, after the project, child rights education centers were created and are functioning in the schools.

The law of the Republic of Azerbaijan "On education (special education) of persons with limited physical capacities", adopted in 2001, enshrines education and protection of rights of disabled people.

The exploration of complaints received by the Commissioner on violation of the rights to education showed that the wider the coverage of problems, the more complicated their solution. These issues have an impact on rights and interests of more poorly protected category of population, i.e children. Therefore, improvement of emerged situation with the purpose of the protection of their rights is of utmost importance.

Utilization of computers within the school should be expanded, salaries of teachers and personnel working with disabled children in establishments should be increased, reputation of vocational schools should be improved, the quality of preschool education should be increased, in remote villages, where schools are at a long distance, municipalities should provide free-of-charge transport means for the children, financial-technical basis of schools should be strengthened in order to root-out problems existed in the sphere of education and to increase further more the quality of education. In order to expand development of the sphere of education and ensure children's rights to education, the Commissioner propose to take the following measures:

- To increase the sum of allocations for food in kindergartens, boarding schools, and children homes;

- To increase the sum of allowances allocated to parents or other assignees for the transportation of children enrolled to special education to and from special educational establishments, health and recreation centres, and medical facilities;
- In the view of completion of the "Program on Education of Children in Need of Special Care (with disabilities) in the Republic of Azerbaijan" this year, to prepare the similar program for the following years;
- For completion of the "Program on Pedagogical Staff in Network of General Schools in the Republic of Azerbaijan for the years of 2005-2009" of the Cabinet of Ministers, to prepare the similar program for the following years;
- To replace hobby groups with human rights coteries at schools;
- To attach more consideration to the issue of self-management, to carry out management of school based on election process, to ensure that students and parents are able to exert influence on management process within educational establishments;
- Taking into account the age of children, to print and distribute among all schools the Convention on the Rights of the Child and training materials in the form of booklets;
- To strengthen further more activities of Parent and Teachers' Committees functioning within the school;
- In order to identify children of school age evading the school, to conduct relevant exploration works and by solving the problems encountered by them, enrol them to education process in a new academic year;
- To supply schools with visual aids for deepening the efficiency of primary military education lessons;
- To improve conditions of children and advocate for child libraries;
- To bring sport halls of schools up to international standards and supply them with the modern equipments;
- To improve the operation of vocational schools;
- To attract children with physical and mental disabilities to inclusive education and ensure necessary physical means;

Violence Against Children.

The violence is the crime committed against any person in any case at any time and considered as the violation of human rights. The Article 46 of the Constiution states: "No one can be tortured and tormented. ..."

Complying with the principles of democratic society, the prevention of daily violence is connected with the solution of such problems as provision of people's safety, adherence to legal norms, reduction of risks of being insulted within domestic environment (family, work and public places), and formation of human values

Different forms of violence committed against people, including women and children, violate their rights and freedoms; economic problems, including poverty and conflicts within the family, further deteriorate the impact of violence. The main targets of violence are women and girls. Joint collaboration for the purpose of strengthening the struggle of state bodies and specialized NGOs against this trouble is very important.

It is important to mention that from the first year of the Commissioner's work, the 24-hour "hotline" serving for prevention of torture and other cruel, inhuman or degrading treatment or punishment and "hotline 916" for promptly addressing the Commissioner regarding violation of child rights were launched within the Institute upon the initiative of the Commissioner. Investigations were conducted, appropriate measures were taken on complaints received via these hotlines.

It should be noted that due to different reasons children are placed in children's homes, different types of boarding schools, children Correctional Institution, temporary detention centres within police departments and other establishments. Often, services available for the children in these establishments are not at the proper level. Besides, unfortunately, in some cases children are exposed to violence by their caregivers or peers. In this regard the Ombudsman Office together with UNICEF initiated a survey with the purpose of exploration of the cases of violence against children in different institutions. This survey is an integral part of Country Survey carried out by the UN for "Assessment of the Cases of Violence Committed Against Children in All Spheres".

The training has been carried out for participants by an international expert. The assessment also covered group discussions with children and chiefs of establishment and interview with personnel working with children. Moreover, the existing legislation on prevention of the violence against children was analysed. Report and recommendations on elimination of active problems were prepared based on the assessment results and sent to concerned bodies and UNICEF.

The research is aimed at defining the cases of violence committed against children in establishments and to take measures towards elimination of the gaps existing in this field.

Commissioner recommended the adoption of the Law "on Domestic Violence". As it was mentioned before, adoption of the Law of the Republic of Azerbaijan "on Preventing Domestic Violence" dated 22 June 2010 has considerable importance in protecting children against violence used on the ground of the family relationship.

Also Commissioner urged the Parliament to make changes and amendments to the Family Code on the identification of marriage age for woman and men as 18. It is worth-mentioning that, on 15 November 2011, Parliament of Azerbaijan made amendments to the legislation on increasing the age of marriage for women to 18.

The Ombudsman Office prepared and submitted to the Parliament a draft law "On the Protection of Children from Corporal Punishment". With the support of the UNICEF posters advocating inadmissibility of corporal punishment of children were prepared, published and distributed with a view to conduct public awareness work in the society. The bill is currently under the consideration of the Parliament.

Furthermore, the Ombudsman recommended ratification of the Convention on the Protection of Children from Sexual Exploitation and Abuse of the Council of Europe signed by the Republic of Azerbaijan on November 17, 2008.

Family rights of children.

The right of children to live in family environment has been endorsed in international and national legislation. Thus, the Article 17 of the Convention on the Rights of the Child envisages the child's right to live with parents and receive care from them.

"State Program on De-institutionalisation and Alternative Care for the years of 2006-2015" was adopted based on the Decree of the President of the Republic of Azerbaijani of March 29, 2006 and the ultimate purpose of this program is to transfer children from the state institutions to family environment and establish as well as apply the mechanisms on arrangement of alternative care with the view of ensuring healthy development in family

environment and integration into society of children who lost their parents and were deprived of parental care.

Since the year of 2006 the Ombudsman Office has implemented projects in collaboration with the UNICEF Baku Office and many crucial activities related to the promotion and protection of children's rights have been realized within the framework of this cooperation. With the support of UNICEF, monitoring of De- institutionalisation and Alternative Care Program was conducted.

In order to explore of the status of children transferred from institutions to biological and alternative families, upon the initiative of the Ombudsman independent monitoring of De-Institutionalization Program and monitoring with the participation of the representatives of the Ministry of Education were carried out in the years of 2007, 2008 and 2012.

The result of monitoring together with the list of children evaded school was sent to the Ministry of Education. We asked to take measures towards the enrolment of these children in school starting from new academic year and keep us informed on that.

Monitoring showed that the main reason of placement of children in state institutions is financial hardships.

Taking into account the fact that majority of children returned to families encounter financial hardships, the Ombudsman office with the purpose of partial solution of this problem collaborated with the SOS Children Village Association and within the framework of "Strengthening Family" Project, every month 11 children from 6 families are provided with food.

Health and social rights of children.

According to the Article 41 of the Constitution of the Republic of Azerbaijan, everyone has the right to protect his/her health and to receive health care, while State takes necessary measures for the development of all the types of public health services functioning based on different types of ownership, guarantees sanitary-epidemiological safety, creates conditions for different types of health insurance. This right, first of all, enables every citizen to have medical examination free of charge in state owned health facilities. Moreover, the Article 24 of the Convention on the Rights of the Child stipulates child' right to receive the most advanced health services, to benefit from treatment and health restoration facilities.

Apart from taking measures on the protection of children's rights to health, the Commissioner initiates the discussion of the problems in this field and puts forward proposals to relevant institutions. Commissioner closely cooperates with the Ministry of Health in order to ensure the right of children to health.

According to the complaints addressed to the Commissioner, applications are being sent to the Ministry of Health regarding medical examination and treatment of women and children from certain categories. In most of the cases the issues indicated therein are being addressed.

Apart from that, relevant measures were taken on the claims sent to the Commissioner by patients having the right to receive medicines, medical examination and treatment at government expense, parents of disabled children, diabetics, patients with kidney diseases, and in most of the cases the violated rights of applicants were restored. A large number of applicants addressing the Commissioner were assigned to appropriate Medical Centres for the treatment and were provided with medical examination, treatment and medicines by the Ministry of Health free of charge. Surgical operations were carried out within the country and abroad and eventually their health was restored.

Considering the importance of Lantus medication for physiological and psychological development of children with diabetes, the Ombudsman applied to the Ministry of Health asking to facilitate the solution of existed problem in this field.

By taking into account Ombudsman's appeal, Lantus medicine, reducing the level of sugar, was included into relevant list and since 2009 has been given to patients free of charge by the Ministry of Health. However, in view of insufficiency of this medicine for all children with diabetes, there is a need for taking measures towards covering the demand for it.

Commissioner thinks that the protection of maternity, reproductive health, social protection of young families, including guarantee of employment, opening of new work places, application of the system of allowances targeted at protection of families and children, allocation of land plots and provision of preferential loans in rural areas, and improvement of housing conditions.

It is worth-mentioning that Commissioner proposed the adoption the Law on Reproductive Health and the Law was adopted by the Parliament this year.

The fact of existence of 12 000 children with heart diseases and that most of them are from vulnerable families is alarming. There is pressing necessity for the construction of Children Cardiac Operations Centre and ensuring free-of charge surgical operation of children with heart diseases.

On the initiative of the Commissioner children in need of urgent surgical intervention on heart were invited to Kiev City "Heart" Centre for undergoing surgery free-of charge.

Commissioner recommends implementation of under-mentioned measures towards ensuring the health of children:

- To adopt the "Program on encouraging employment of medical personnel in rural areas" in health sector;
- To establish "National Blood Donors Day" and arrange blood donation actions for Blood Bank for the purpose of proactive involvement of population in blood donation movement;
- To raise public awareness on reproductive health;
- To advocate healthy lifestyle;
- To raise public awareness on breast feeding of children, iodized salt and microsupplements;
- To ensure full coverage of need of children with diabetes in Lantus medicine;
- To establish medical aid stations within schools and supply of necessary medicines and other facilities for schools;
- To make changes and amendments to relevant legislation on provision of special financial assistance, including nursery (caregivers) for children until they are 1 year old for the family with twins and triplets and rendering of assistance for pregnant women and women with children of breastfeeding age;
- To make changes and amendments to relevant legislation on insurance of children by the State for the purpose of protection of their health.

The Ombudsman office closely cooperates with the Ministry of Labour and Social Protection of Population with the view of elimination of problem in the giving social allowances to families. On the initiative and proposal of the Ombudsman, relevant changes and amendments were made to legislation on the provision of social assistance. Thus, the

term of aid provision was extended from 6 months to one year, while the term of suspension of aid provision due to certain reasons was reduced from two years to one year.

Proposals on social rights:

Aiming at arranging and strengthening social protection of orphans and children deprived of parental care and ensuring gradual solution of the problem, to establish Social Rehabilitation Centers with the capacity of provision of social assistance to children and ensuring their return to families, Crisis Centers for children exposed to violence, Asylums for Children and Adolescents, Aid Centers for the Children Deprived of Parental Care, to create the network of entities and services under state social protection bodies, to transfer children from State Training-Fostering Institutions to families for the purpose of ensuring their sustainable development in family environment and integration into society, to create and apply the mechanism on the provision of alternative care and to increase, according to need, the amount of financial means to be allocated from state budget for taking measures stipulated in relevant programs for the implementation of mentioned work;

Taking into account large number of cases concerning payment of alimony imposed by a court decision for child support, to create and apply the mechanism of payment of alimony by the State Social Protection Fund (or "Alimony Fund" created at the concerned state body and financed by state) which should be paid based on court resolution decision by defendant to claimant, provided that later on the alimony is recovered by the State from debtor in a mandatory manner;

- To increase the amount of monthly allowance paid to guardians (trustees) of orphans and children deprived of parental care to the level enabling to cover basic needs;
- To increase furthermore the amount of allowances allocated for the children of conscripts, martyrs, disabled servicemen, persons who became disabled during January 20 events, persons with I and II groups of disability of Chernobyl disaster, and of deceased persons;
- To increase the amount of allowances allocated to the parents and other legal assignees of children attracted to special education for the transportation of children to and from educational institutions, health and rehabilitation centers and medical facilities;
- To assign at least 2 workers instead of one for every 20 children with disabilities within boarding schools, and restore 40% of privileges for them;
- In order to ensure the rights of persons with disabilities and create conditions for their free movement, to construct ramps in cities and districts;

Right to participation

As mentioned above, one of the activity directions of the Commissioner is ensuring participation of children, discover and develop their talent and organize efficient spending time for them through the child resource centre of Ombudsman. There is Azerbaijan Child and Youth Peace Network that acts as advisory capacity to the Commissioner. There are more than 300 members that graduated the Leadership school functioned at the resource center. Each year Children finished this course get certificates. Each Sunday public officials, experts, scientists and staff member of the Ombudsman Office provide lectures for children and conduct interactive discussions with the participation of children. Since 10-year of its activity, the center has done profound work on child rights protection and promotion. Young people of the organization acted in their schools as Ambassadors of Ombudsman. They made many visits to regions, child institutions, children in conflict with law, children from refugee and IDP families and other children in need of special care.

The resource center fully ensures the participation of children and in order to give them opportunity to spend their leisure time effectively different trips are organized for them to winter and summer camps.

International cooperation. Ombudsman Office of the Republic of Azerbaijan is a member of the European Network of Ombudspersons for Children (ENOC) since 2008 and closely cooperating with this organization. Since 2008, Commissioner and her representatives participated in all its Annual Conferences (2008-Ireland, Dublin, 2009-Paris, France, 2010-Strasbourg, France, 2011 –Warsaw, Poland) and share experience on child rights protection. In 2010 ENOC has launched ENYA (European Network) project. The purpose of the project is to create the network of children in Europe and to give them a say on their problems, proposals on their elimination. Coordinator and Members of Azerbaijan Child and Youth Peace Network were participated in this project and in ENYA meetings held in Malta (June, 2010), Belfast, Northern Ireland (July, 2011), Warsaw, Poland (September, 2011), Nicosia, Cyprus (October, 2012). They provide proposals on the problems children face and made presentation before Commissioner for Human Rights of the Council of Europe, Tomas Hammarberg, Ombudspersons, international experts on child rights.

In second ENYA meeting held in 2010, October in Strasbourg, they made presentation at the Council of Europe before the High Commissioner for Human Rights of the Council of Europe. Tomas Hammarberg, Ombudspersons, international experts on child rights.

One of the main functions of the Commissioner is lobbying and promotional activities. With the aim to support the campaign of the Council of Europe on combating violence against children started at the end of the previous year the discussions on violence against children, early marriage, reproductive right, fight against HIV/AIDS and other relevant topics were conducted upon the initiative of the Commissioner. The events were carried out together with the Scientific-Research Institute of Maternity and Gynecology of the Ministry of Health at the Buta Youth-Friendly Clinic Center with the involvement of children and parents. Simultaneously, within the Child Rights Month declared by the Commissioner this campaign of the CE was promoted during every conducted event. The information on the work carried out as well as Commissioner's proposals on the campaign was sent to the Council of Europe.

Commissioner also cooperates with EU within the framework of the Twinning Program. Within the project in 2011 German Institute for Human Rights provided capacity-building trainings and meetings in different fields, as well as on child rights promotion and protection for Ombudsman Office.

Commissioner participates in preparation of different CoE documents. Commissioner contributed to the preparation of CoE Guidelines on Child-Friendly Justice and CoE Strategy on the Rights of the Child.

Cooperation with mass media.

Commissioner closely collaborates with mass media regarding the violation of privacy of children in TV channels, newspapers and other mass media.

Personalities, names and addresses of child victims of violence and children committing crimes are sometimes spread by police through the means of mass media. Also, the similar information is distributed after revealing children during raid in brothels, night clubs, or bars. In this connection, the Ombudsman applied to the Minister of Internal Affairs noting that the spread of such information can result in the violation of children's rights, their psychical stress, involvement in crimes, suicide attempts, isolation from society and other negative implications.

Ombudsman applied to mass media and advised them to be cautious in enlightening the issues about children and dissemination of information threatening their future lives.

Moreover, the Ombudsman turned to concerned bodies on broadcasting of programs that possibly exert negative impact on psyche of children at times defined by legislation or their coded broadcasting. The National TV and Radio Broadcasting Council of the Republic of Azerbaijan stated that «Rules on broadcasting of programs menacing physical, mental and spiritual development of children, programs broadcasted without coding, including programs demonstrating pornography, erotica and cruelty" were sent to all TV and Radio Broadcasting Agencies and relevant steps were taken for their implementation.

Proposals:

- To ensure that the broadcasting of programs demonstrating cruelty and other such type of information at times other than defined by rules should be accompanied with "Prohibited for the view of children" and with other warning notes;
- To produce continuously different child-oriented programs covering different subjects;
- To allocate children's right hours on monthly basis in TV channels;
- To broadcast social trailers on TV channels and in screens placed on the streets and to place posters, placards, other advertisement and promotional materials on children's rights in cities and districts of the country;
- In order to prevent the damage imposed on children's psychological development by harmful information gained through mass media, internet sites and other means and the cases of violation of children's rights in mass media to make changes and amendments to the existing laws in the field of media.

In spite of the measures taken in the country in the field of children's rights protection and promotion, problems still exist and proactive participation and cooperation of state bodies with local and international non-governmental institutions is obligatory for development and implementation of integral strategy on children's rights.